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Date: October 29, 2014

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**Arizona Corporation Commission**  
**1200 West Washington St.**  
**Phoenix, AZ 85007**

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AZ CORP COMMISSION  
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From: Robert T. Hardcastle  
Brooke Utilities, Inc.

ORIGINAL

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**DOCKET NO. W-03515A-14-0310**

IN THE MATTER OF THE APPLICATION OF TONTO BASIN WATER  
CO., INC., AN ARIZONA CORPORATION, FOR A DETERMINATION  
OF THE FAIR VALUE OF ITS UTILITY PLANTS AND PROPERTY)  
AND FOR INCREASES IN ITS WATER RATES AND CHARGES FOR  
UTILITY SERVICE BASED THEREON.

By:

  
Robert T. Hardcastle

Arizona Corporation Commission  
**DOCKETED**

NOV 3 2014

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

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3 Robert T. Hardcastle

4 P.O. Box 82218

5 Bakersfield, CA 93380-2218

6 *Representing Itself In Propria Persona*

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7  
8 **COMMISSIONERS**

9 Gary Pierce, Chairman

10 Paul Newman, Commissioner

11 Brenda Burns, Commissioner

12 Bob Stump, Commissioner

13 Sandra D. Kennedy, Commissioner

14  
15 IN THE MATTER OF THE APPLICATION ) **DOCKET NO. W-03515A-14-0310**  
16 OF TONTO BASIN WATER CO., INC., )  
17 AN ARIZONA CORPORATION, FOR A ) **BROOKE UTILITIES, INC.'S**  
18 DETERMINATION OF THE FAIR VALUE ) **RESPONSE TO OBJECTION TO**  
19 OF ITS UTILITY PLANTS AND PROPERTY) **APPLICATION FOR**  
20 AND FOR INCREASES IN ITS WATER ) **INTERVENTION**  
21 RATES AND CHARGES FOR UTILITY )  
22 SERVICE BASED THEREON )  
23

24 Applicant Brooke Utilities, Inc. ("Brooke") filed its Application for Intervention  
25 through a Motion to Intervene (the "Application") dated October 13, 2014 with Docket  
26 Control of the Arizona Corporation Commission ("Commission"). The Application was  
27 Docketed by the Commission on October 20, 2014.

28 On October 28, 2014 Tonto Basin Water Co., Inc. (Tonto Basin") filed its  
29 objection to Brooke's Application.

30 Title 14 at Section R14-3-105 (A) of the Arizona Administrative Code ("A.A.C.")  
31 states, as follows:

32 **Intervention: Persons, *other than the original parties to the proceedings*, who**  
33 **are directly and substantially affected by the proceedings, shall secure an**  
34 **order from the Commission or presiding officer granting leave to intervene**  
35 **before being allowed to participate. (emphasis added)**  
36

1 Tonto Basin wrongly argues the stock sale of May 31, 2013 and the Agreement  
2 memorializing the transaction are not at issue in Tonto Basin's rate application; how the  
3 outcome of its rate case might affect the transaction; and, that issues beyond the scope of  
4 the rate case may risk that the rate application will be unduly broad and delay the  
5 proceedings.

6 None of Tonto Basin's arguments conform to, nor address, the strict requirements  
7 of A.A.C. R14-3-105. In fact, Brooke is a party other than the original parties and is, or  
8 may be, **directly and substantially affected** by the proceedings.

9 Tonto Basin is well aware that the rate application test year does not conform to  
10 the requirements of the transaction between the parties. No argument is presented in  
11 Tonto Basin's Objection to the contrary. In various correspondence between the parties  
12 JW Water Holdings LLC ("JW Water"), on July 1, 2104, requested Brooke's permission  
13 to modify the Agreement's requirements so as to allow a test year ending June 30, 2014.  
14 JW Water explained that the change in test years was being considered based on  
15 preliminary discussions with Commission staff indicating "they [Commission staff]  
16 would prefer" the requested modified test year. On July 17, 2014 Brooke responded that  
17 the Agreement ramifications of a changed test year could not be determined based on the  
18 information available. Brooke requested that JW Water provide the necessary analysis of  
19 the impact of the proposed changed test year on the Agreement. Brooke made it clear that  
20 its approval of a changed test year required some reasonable basis in order to provide its  
21 approval. Brooke has never approved a modification to the Agreement using a different  
22 test year. Without further reply or discussion JW Water unilaterally filed the rate  
23 application for Tonto Basin on August 22, 2014 using the test year ending June 30, 2014.

24 The actions of JW Water and Tonto Basin make the direct and substantial impact  
25 on Brooke incalculable. Brooke asked JW Water to provide an analysis of the use of  
26 different test years. JW Water did not do so but, rather, filed the rate application anyway.

27 The financial impact on Brooke is unknown from JW Water's actions. As such, it  
28 leaves Brooke in a position to consider seeking redress or remedies provided for in the  
29 Agreement, at law or both. The eventual result of those remedies could have financial,

1 managerial, operational, and ownership impacts that cannot now be determined. The  
2 effect on the instant rate application is unknown but, in some sense, a replacement  
3 application that conforms to the requirements of the Agreement is not unreasonable.

4 As a direct and substantially affected non-party Brooke should allowed  
5 intervention in Tonto Basin's rate application with all the rights and privileges accorded  
6 under A.A.C. Title 14. Absent such standing in the instant proceeding Brooke must  
7 assume the worst case scenario and proceed in a manner that best protects its interests.

8 Based on the foregoing, Brooke's request for intervention should be approved in  
9 order for it to determine the extent of the impact of JW Water's failure to abide by the  
10 terms and conditions of the Agreement related to a properly negotiated test year. Brooke  
11 does not have any interest in broadening the rate application issues or delaying  
12 adjudication by the Commission.

13  
14 RESPECTFULLY SUBMITTED this 29th day of October 2014.

15 Brooke Utilities, Inc.

16  
17 By: 

18 Robert T. Hardcastle

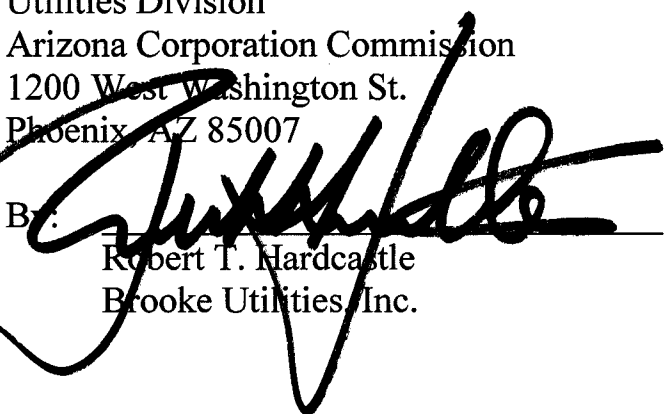
19 *In Propria Persona*

20 ORIGINAL and 13 copies filed  
21 this 29th day October 2014, with:

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23 **Docket Control**  
24 **Arizona Corporation Commission**  
25 **1200 West Washington St.**  
26 **Phoenix, AZ 85007**

27  
28 And copies mailed to the following:

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